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Paper No. 3

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**JUN 22 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

In re Application of	:	
Mark Ontiveros et al.	:	DECISION GRANTING
Application No. 09/761,499	:	PETITION
Filed: January 16, 2001	:	
Attorney Docket No. CAPTNE/P002A1	:	

This is a decision on the paper styled "Petition To Secure Filing Date..." filed May 31, 2001, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of January 16, 2001, rather than the presently accorded filing date of January 18, 2001.

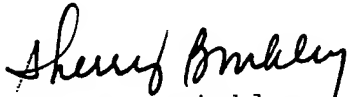
Applicants allege that the application was deposited in "Express Mail" service with the U.S. Postal Service, on January 16, 2001. In support, applicants provided a copy of the Express Mail label, receipt no. EL234123066US, showing a Date-In of January 16, 2001. The same Express Mail receipt number was referred to in the copy of the original Application Transmittal Letter submitted with the instant petition. Applicants request that the application be accorded a filing date of January 16, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on January 16, 2001.

The petition is granted. Since the petition was a result of PTO error, the \$130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to January 16, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685..

A handwritten signature in cursive script, appearing to read "Sherry Brinkley".

Sherry Brinkley  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy